

SHB 2542 - H AMD 747

By Representative Nealey

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 26.50.070 and 2010 c 274 s 305 are each amended to  
4 read as follows:

5 (1) Where an application under this section alleges that  
6 irreparable injury could result from domestic violence if an order is  
7 not issued immediately without prior notice to the respondent, the  
8 court may grant an ex parte temporary order for protection, pending a  
9 full hearing, and grant relief as the court deems proper, including  
10 an order:

11 (a) Restraining any party from committing acts of domestic  
12 violence;

13 (b) Restraining any party from going onto the grounds of or  
14 entering the dwelling that the parties share, from the residence,  
15 workplace, or school of the other, or from the day care or school of  
16 a child until further order of the court;

17 (c) Prohibiting any party from knowingly coming within, or  
18 knowingly remaining within, a specified distance from a specified  
19 location;

20 (d) Restraining any party from interfering with the other's  
21 custody of the minor children or from removing the children from the  
22 jurisdiction of the court;

23 (e) Restraining any party from having any contact with the victim  
24 of domestic violence or the victim's children or members of the  
25 victim's household;

26 (f) Considering the provisions of RCW 9.41.800; and

27 (g) Restraining the respondent from harassing, following, keeping  
28 under physical or electronic surveillance, cyberstalking as defined  
29 in RCW 9.61.260, and using telephonic, audiovisual, or other  
30 electronic means to monitor the actions, location, or communication  
31 of a victim of domestic violence, the victim's children, or members  
32 of the victim's household. For the purposes of this subsection,

1 "communication" includes both "wire communication" and "electronic  
2 communication" as defined in RCW 9.73.260.

3 (2) Irreparable injury under this section includes but is not  
4 limited to situations in which the respondent has recently threatened  
5 petitioner with bodily injury or has engaged in acts of domestic  
6 violence against the petitioner.

7 (3) The court shall hold an ex parte hearing in person or by  
8 telephone on the day the petition is filed or on the following  
9 judicial day.

10 (4) An ex parte temporary order for protection shall be effective  
11 for a fixed period not to exceed fourteen days or twenty-four days if  
12 the court has permitted service by publication under RCW 26.50.085 or  
13 by mail under RCW 26.50.123. The ex parte order may be reissued. A  
14 full hearing, as provided in this chapter, shall be set for not later  
15 than fourteen days from the issuance of the temporary order or not  
16 later than twenty-four days if service by publication or by mail is  
17 permitted. In the instance where an ex parte temporary order for  
18 protection is issued prior to the expiration of an emergency ex parte  
19 temporary domestic violence protection order pursuant to section 2 of  
20 this act, a full hearing shall be set for not later than fourteen  
21 days from the issuance of the emergency ex parte temporary domestic  
22 violence protection order or not later than twenty-four days if  
23 service by publication or by mail is permitted. Except as provided in  
24 RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be  
25 personally served with a copy of the ex parte order along with a copy  
26 of the petition and notice of the date set for the hearing.

27 (5) Any order issued under this section shall contain the date  
28 and time of issuance and the expiration date and shall be entered  
29 into a statewide judicial information system by the clerk of the  
30 court within one judicial day after issuance.

31 (6) If the court declines to issue an ex parte temporary order  
32 for protection the court shall state the particular reasons for the  
33 court's denial. The court's denial of a motion for an ex parte order  
34 of protection shall be filed with the court.

35 NEW SECTION. Sec. 2. A new section is added to chapter 26.50  
36 RCW to read as follows:

37 There shall exist an action known as an emergency ex parte  
38 temporary domestic violence protection order.

1 (1) Where a law enforcement officer responds to an act of  
2 domestic violence which has occurred, an act of domestic violence  
3 which is occurring, or a credible threat of future domestic violence  
4 likely to occur outside of normal court hours and a party expresses a  
5 fear of imminent physical harm, bodily injury, or assault, between  
6 family or household members, a party may request to file an emergency  
7 ex parte temporary domestic violence protection order via telephone.  
8 The petitioning party alleging the domestic violence must present to  
9 the court by telephone under penalty of perjury a sworn petition  
10 setting forth the need for an emergency ex parte temporary domestic  
11 violence protection order. A court may issue an order if the court  
12 finds reasonable grounds that irreparable injury could result from  
13 domestic violence if an order is not issued without prior notice to  
14 the respondent. Sworn telephonic testimony may be considered by the  
15 court in determining whether there are sufficient grounds for issuing  
16 the order. The petition shall include the location and telephone  
17 number of the alleged perpetrator, if known. The petitioner shall  
18 disclose the existence of any other litigation or of any other  
19 restraining, protection, or no-contact orders between the parties.  
20 The court may grant any relief as the court deems proper, including  
21 any relief authorized under RCW 26.50.070. When an emergency ex parte  
22 temporary domestic violence protection order is granted pursuant to  
23 this subsection by the court via telephone, the responding law  
24 enforcement officer shall: (a) If necessary, pursuant to the on-call  
25 judicial officer's oral approval, write and sign the order on an  
26 approved form; (b) if possible, immediately serve a signed copy of  
27 the order on the respondent and complete the appropriate affidavit of  
28 service; (c) if the respondent is not available, immediately forward  
29 the order to the appropriate law enforcement agency specified in the  
30 order for service upon the respondent; (d) immediately provide the  
31 petitioner with a signed copy of the order; and (e) provide the  
32 original petition, order, and return of service to the court by the  
33 close of business on the next judicial day.

34 (2) A petition for relief may be made regardless of whether or  
35 not there is a pending lawsuit, complaint, petition, or other action  
36 between the parties.

37 (3) An emergency ex parte temporary domestic violence protection  
38 order is effective for a period of seventy-two hours. The petitioning

1 party may petition for an ex parte temporary order for protection on  
2 the next judicial day pursuant to RCW 26.50.070."

3 Correct the title.

EFFECT: Makes the following changes:

(1) Creates a new emergency ex parte temporary domestic violence protection order that expires seventy-two hours from issuance. The court may grant any relief deemed proper, including any relief authorized under an ex parte temporary order for protection.

(2) Extends the ability to issue an emergency ex parte temporary domestic violence protection order to all courts of limited jurisdiction.

(3) Clarifies that the petitioning party alleging the domestic violence presents the telephonic petition under penalty of perjury.

(4) Requires the petitioner to disclose the existence of pending litigation or other restraining, protection, or no-contact orders between the parties.

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